



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2021-0406; FRL-10991-02-R4]

Air Plan Approval; North Carolina;

Bulk Gasoline Plants, Terminals Vapor Recovery Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ), via a letter dated April 13, 2021. This SIP revision includes changes to NCDEQ's regulations regarding bulk gasoline terminals and plants, gasoline cargo tanks and vapor collection systems, and leak tightness and vapor leak requirements. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0406. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via electronic mail at sheckler.kelly@epa.gov or via telephone at (404) 562-9222.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving changes to North Carolina's SIP that were provided to EPA through NCDEQ via a letter dated April 13, 2021.¹ Specifically, EPA is approving changes to 15A North Carolina Administrative Code (NCAC), Subchapter 02D, Rules .0926, *Bulk Gasoline Plants*;² .0927, *Bulk Gasoline Terminals*;³ .0932, *Gasoline Cargo Tanks and Vapor Collection Systems*; and .2615, *Determination of Leak Tightness and Vapor Leaks*.⁴ These changes include adding, removing, and revising definitions; removing obsolete language; clarifying some requirements; and making general grammar and formatting updates. Through a notice of proposed rulemaking (NPRM), published on June 13, 2023, (88 FR 38436), EPA proposed to approve the April 13, 2021, changes to North Carolina Rules 15 NCAC 02D .0926, .0927, .0932, and .2615. The details of North Carolina's submission, as well as EPA's rationale for approving the changes, are

¹ EPA notes that the April 13, 2021, submittal was received by EPA on April 14, 2021.

² In Paragraph (n) of Rule .0926, North Carolina's Rule references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that reference in Paragraph (n) from the April 13, 2021, SIP revision.

³ Similar to the changes in Rule 02D .0926(n), Rule 02D .0927(k) also references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that reference in Paragraph (k) from the April 13, 2021, SIP revision.

⁴ EPA notes that the Agency received several revisions to the North Carolina SIP transmitted with the same April 13, 2021, cover letter. EPA is not acting on revisions to the North Carolina SIP in this document that are not explicitly identified herein, and EPA may act on these other SIP revisions in separate rulemakings.

described in more detail in the June 13, 2023, NPRM. Comments on the June 13, 2023, NPRM were due on or before July 13, 2023. No comments were received on the June 13, 2023, NPRM, adverse or otherwise.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02D, Rules .0926, *Bulk Gasoline Plants*,⁵ and .0927, *Bulk Gasoline Terminals*,⁶ both state-effective on November 1, 2020; as well as Rules .0932, *Gasoline Cargo Tanks and Vapor Collection Systems*, and .2615, *Determination of Leak Tightness and Vapor Leaks*, both state-effective October 1, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁷

III. Final Action

EPA is approving the aforementioned changes to the SIP. Specifically, EPA is finalizing the approval of the April 13, 2021, SIP revision that incorporate changes to North Carolina's rules in 02D Section .0926, *Bulk Gasoline Plants*; .0927, *Bulk Gasoline Terminals*; .0932, *Gasoline Cargo Tanks and Vapor Recovery Collection Systems*; and .2615, *Determination of Leak Tightness and Vapor Leaks* into the federally approved SIP.

⁵ Except for references to Rule 02D .0960 found in paragraph .0926(n).

⁶ Except for references to Rule 02D .0960 found in paragraph .0927(k).

⁷ See 62 FR 27968 (May 22, 1997).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

DAQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Jeananne Gettle,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II - North Carolina

2. In § 52.1770, amend the table in paragraph (c)(1) by removing the entries “Section .0926,” “Section .0927,” “Section .0932,” and “Section .2615” and adding in their place entries “Rule .0926,” “Rule .0927,” “Rule .0932,” and “Rule .2615,” respectively, to read as follows:

§ 52.1770 Identification of plan.

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(c) * * *

(1) EPA-Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Section .0900 Volatile Organic Compounds				
**	**	*	*	*
Rule .0926	Bulk Gasoline Plants	11/1/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	Except for references to Rule 02D .0960 found in paragraph .0926(n).
Rule .0927	Bulk Gasoline Terminals	11/1/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	Except for references to Rule 02D .0960 found in paragraph .0927(k).
**	**	*	*	*
Rule .0932	Gasoline Cargo Tanks and Vapor Collection Systems	10/1/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*

Section .2600 Source Testing				
**	**	*	*	*
Rule .2615	Determination of Leak Tightness and Vapor Leaks	10/1/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*

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[FR Doc. 2023-16564 Filed: 8/8/2023 8:45 am; Publication Date: 8/9/2023]